MS. GRAHAM: Mr. President, we did spend time here and we discussed it, and I thought it was understood that we had an understanding of each section we went through. I thought it was clear that we would move along with this language because we have received nothing else to the contrary.

Now, when it comes to section 2, there were many questions about it. But in the end I thought we kind of understood that also. But that was the main one.

Is this clear now for section 1?

PRESIDENT CASSELL: Let me indicate that what we are talking about is the question before us with this wording change is really not that significant. What the committee has indicated is that they are following their charge to try to eliminate any unnecessary words. Now, I think there is general agreement there is no substantive change. Inasmuch as the chairperson of that committee and other members are not here, several other members are not here, we can't resolve the committee's reaction to that.

However, I don't think we need to be delayed over this, what appears to me to be a rather minor change. Now, we may run into more trouble later on, but can we move beyond this?

MS. GRAHAM: Yes. Mr. Chairman, I move the adoption

of section 1, judicial power, as written.

MR. SCHRAG: Second.

PRESIDENT CASSELL: It has been moved and seconded that we adopt section 1, judicial power. Those in favor --

MS. FREEMAN: Mr. President, I want to make an amendment to this section. I am not quite sure of what the procedure is because the chair and vice chair of the committee are not here. So if I cannot get permission -- if I am allowed to get permission from another member of the committee, I will do it that way. Or I guess I would have to move to suspend the rules.

It is a very short amendment.

PRESIDENT CASSELL: Our rules do not take into account the fact that that permission may not be obtainable in place of the absence of certain committee members.

First of all, how many members of the committee are here? There are four -- there are five members --

(Delegates talking simultaneously.)

MRS. MASON: He can't hear you. Not the Judiciary Committee, Charlie.

PRESIDENT CASSELL: All right. What I'm asking is, the rules indicate that to make an amendment we need to go through the chairperson of the Substantive Committee. Delegate

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

Freeman has indicated she can't do that because the chairperson is not here.

How many members are there of the Judiciary Committee?

(Simultaneous voices.)

PRESIDENT CASSELL: All right, let the Chair conduct this now.

Delegate Thomas, one; Delegate Brian Moore, two; Delegate Harris, three; Delegate Paramore, four. Is that it, four members?

Without objection, in order to expedite this -- and we're only talking about a procedural matter -- may we have a consensus of that committee to allow an amendment to be offered by Delegate Freeman?

Is there objection from any of those four?

MR. THOMAS: First of all, there would be an objection, Mr. President. During the reading of the whole article, in particular Delegate Brian Moore was against the committee from the beginning, and we can't -- four members and making a decision for the committee, when the whole committee was divided.

PRESIDENT CASSELL: Now, we don't have a procedure for entertaining this amendment at this time, and I would not

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
202) 546-6666

want to start suspending our rules this early in the game.

Can you hold that, please, until such time as it may be appropriate, even if it's not today, and also please if you can get those individuals that you need to get that -- if you could get those individuals here, I would prefer not to go through suspending the rules. There are only four members, and there is division among the members of that committee.

Delegate Cooper.

MR. COOPER: Mr. President, I have a grave concern because our rules clearly state that we have a first reading at which all those amendments can be offered. It is very restrictive as to what you can do by way of amendments in the second reading. It has got to be introduced in substance -- you know, as an amendment, prior to being reported out, or that consideration can be waived by the committee chair and the committee chair only.

Now, if the committee chair is not here, he can't express that he wants this kind of stuff. That's the breaks. The rules are very strict when they speak to that, and I think if we're going to get through on time we have to stick to these rules. We haven't stuck to them in the past, but now is not too late to stick to them, so we can move through this

second reading and get the thing adopted. Otherwise, we're going to have all kinds of amendments coming up from everybody. Once you set a precedence by saying "well, let's let this one go", you have got to let them all go and we'll never get through.

PRESIDENT CASSELL: The Chair agrees 101 percent with the Secretary. There is no device for making your amendment.

Miss Graham, please move on.

MR. LOVE: Point of order.

MS. FREEMAN: Point of order.

PRESIDENT CASSELL: Point of order, Delegate Long.

MS. FREEMAN: I move therefore to suspend the rule --

PRESIDENT CASSELL: I recognized Delegate Long.

MS. FREEMAN: I'm sorry.

MR. LONG: There is an orderly way to proceed with a proposed amendment. A motion to suspend the rules for a particular purpose is in our rules. If that is defeated, we go on; if it passes, we deal with the amendment. It is very simply taken care of. It requires two-thirds present voting to pass it.

PRESIDENT CASSELL: The Chair stated that himself.

The Chair indicated he preferred not to in the absence of the chairperson -- in other words, if we've got a problem describing something in the committee and it can be described, that's one thing. I prefer not to. We can be suspending the rules, but the time to complete is very, very short and I would prefer not to do that. It would be more expeditious to try to get that chairperson here and raise the issue. You can always go back. We can leave this aside and raise that issue at an appropriate time.

Before I recognize you, Delegate Jackson.

MR. JACKSON: Just to state one point. It seems to me that one should not be penalized because (unintelligible) From what I understand, this was submitted to the committee chair. Now, I'm not speaking on the merits of the amendment, just the simple procedures. If there are so many members of the committee here, the delegate cannot be denied the right to bring up something which --

PRESIDENT CASSELL: If you would let me interrupt you, I would say our understanding is not (inaudible) The committee chair is not aware of this amendment.

MR. JACKSON: Who says the (unintelligible)

PRESIDENT CASSELL: Our Secretary.

MR. JACKSON: How does the Secretary know?

LLER REPORTING CO., INC.
0 Massachusetts Avenue, N.E.
ashington, D.C. 20002
02) 546-6666

PRESIDENT CASSELL: Well, he would certainly know as well as you do, wouldn't he?

MR. JACKSON: He may not, Mr. Chair. There's a lot of things he don't know. But that's not the point. Let's speak to the issues. The Secretary is wrong most of the time.

PRESIDENT CASSELL: All right.

(Simultaneous voices.)

PRESIDENT CASSELL: A little order, please, a little order. Let's not lose too much time on this.

We have in a memorandum from the Secretary all of the amendments that have been submitted. On Judiciary there is none from Delegate Freeman. There is one from Blount, one from Clark, one from Thomas, and one from Jordan.

All right. You still have the floor.

MR. JACKSON: I would ask the Chair to at least allow this person to put what they have on the floor and just let us hear it. We don't know what it is. It could be anything. It doesn't hurt one single thing.

If it didn't pass, two-thirds of the people aren't going to move to change it, but let us at least hear what it is. There is no harm there.

PRESIDENT CASSELL: I appreciate what you're saying. Let me remind you I have already stated I would prefer not to

in the interest of time. If we had a whole series of amendments on the floor that had not been properly submitted, that her name had not gotten the approval of the chair, it would simply delay us.

That's what's wrong with that, Delegate Jackson. We can go through procedures and processes that may be very satisfactory to each individual, but we have just six more days. We're trying to --

MR. JACKSON: Mr. Chair --

PRESIDENT CASSELL: Please, sir, I have not relenquished the floor, all right. You just stand and listen to me.

I am suggesting that we not go through that procedure because we can have a grand old time getting two-thirds overruling, but that isn't going to help the procedure. I think expedition is important.

There is another way. I am certain the chairperson of that committee will be seen in this Convention at another time. If we follow our rules, we will simply not allow that to come up at this time. Anybody has a right at any time -- we can do it ten times today -- to ask that we suspend our rules, and that's the way we could spend the rest of our six days. I hope not.

Delegate Freeman.

MS. FREEMAN: I appreciate the concern of President Cassell. What I want to move is a two-word amendment, and it is extremely critical and it was, in fact, pointed out in the General Counsel's memo to the delegates on May 21st. I think it is reasonable to consider it now in light of the fact that we will be reading the rest of the second reading of the Judiciary Article and it is relevant to the rest of the reading.

I am not one to move to suspend the rules ever in this Convention, and I do understand the problem. However, I want to point out one more thing, that to adopt my amendment would require two-thirds, just as to suspend the rules would require two-thirds. So if we move not to, the whole thing is a moot point anyway. I mean, it's a one vote, two-thirds, at some point or another, sooner or later.

PRESIDENT CASSELL: All right. What we are faced with now is, shall we allow a delegate to introduce a motion to amend which will take, first of all, two-thirds to adopt, and will take another motion getting two-thirds. Shall this body take that procedure now and shall we do that for the rest of the day?

Let me get some response. Delegate Mason.

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

MRS. MASON: I understand the concern of the President. I understand the concern of the delegate who may have an amendment which they would like to offer. The question is, when a committee votes out its reports, is it still the committee's report, or does it then belong to the body, and can we amend (inaudible) (voices speaking)

Excuse me, now. I am asking this for your deliberations, because we don't have a long time now. If people have amendments, if there are a lot of amendments, these have to go back to Style and Drafting and you can't (inaudible) until next week to do that. So it seems to me that the body by now should know what amendments the body would like to make, and most either are --

A DELEGATE: We can't hear you back here.

MRS. MASON: (On microphone.) Fellow delegates, the question I am raising is, once a report is reported out to the Convention, is it still the property of the Convention or does it belong to the body? If it belongs to the body, then cannot delegates make amendments without suspending the rules? That is for your deliberation. I think that is the real issue here.

The other part of the question is, if we wait until much later to let people make amendments, it will have to go

back to Style and Drafting. We will not be able to go through all of that by the end of next week.

So I think we now know what we want pretty clearly. If somebody wants to put something on the floor, if you don't want it, don't second it. If somebody seconds it and you don't want it, don't discuss it, unless it is something very serious. Then you discuss and then you vote either up or down.

I appreciate what the President is trying to do. He is trying to get this worked out. But I would think it might be -- and you could think about this, Mr. President -- in my opinion, reports which have come to the body belong to the body and not still to the committee. That doesn't mean that the committee chairperson or the members -- and/or the members cannot give opinions like everybody else in here, and we would respect the committees from which these reports have come, but I would hope you would think about whether or not we can amend without suspending the rules.

PRESIDENT CASSELL: I have been thinking feverishly as you have been talking to see if I couldn't come up with, first of all, a reasonable and accurate answer.

Once a committee reports an article out and the body adopts it, it is no longer the property of the committee. It is the body's. However, our rules indicate the procedure

ALLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

from then on.

That article, which is now the property of the body, can only be amended by a delegate who wants to make amendments, getting the permission from the chairperson. That's what the rules say about this article that belongs to the body, all right?

It also says that once permission is granted, then there needs to be a two-thirds majority. It cannot be a simple majority. The procedures say that once it comes out of their committee, and you're dealing with a second reading, it takes a two-thirds majority in order to pass it. Okay?

Now, I sure would like to move on.

MRS. MASON: Mr. President, I just pose this:

Suppose the chairpeople never came back to the Convention? What would we do then?

PRESIDENT CASSELL: We would have a difficult time. If nobody ever came back, then we would have ourselves suspending the rules constantly. The question is, how fruitful can suspending the rules be if the delegates are not attending. I would prefer not to get into that.

MRS. MASON: Thank you, Mr. President.

PRESIDENT CASSELL: Mr. Cooper.

MR. ROBINSON: This is ridiculous! I have had my

hand up for five minutes and the Chair refuses to recognize me.

PRESIDENT CASSELL: Delegate Cooper.

MR. COOPER: Once a report is submitted and (inaudible) (Delegates speaking simultaneously.) -- prior to them reporting it out at first reading, or does that require (inaudible) It takes strict discipline on the part of the delegates (inaudible) if they would have submitted the amendments through the proper channels and then we wouldn't have this problem of helter-skelter --

PRESIDENT CASSELL: Okay. Delegates, please. I hope we don't have to prolong this too long.

Delegate Freeman, what you have may very well take 30 seconds, and it may be very insignificant. That is not what I'm concerned about. I am concerned about establishing a precedent. If we establish a precedent right now which allows any delegate, first of all, to ask for a suspension of the rules, in order to make an amendment, which itself must get two-thirds, then I would be obligated to follow this procedure from here on. I prefer not to do that.

I would wish there would be some other way. I don't even know what it is, and I'm glad I don't because I might be persuaded. But the Chair feels it is a very difficult thing to do and I need the help of somebody who might decide, no

matter how much you would like to make that, applying another rule, another amendment, that would allow us to go on.

I have suggested that perhaps you could get the permission of that chairperson. If you can't get the permission of that chairperson, you can come back and ask the body to accept that, to suspend the rules. But I don't want to have to be doing that the rest of the night.

MR. OULAHAN: Mr. Chairman, I have some help.

PRESIDENT CASSELL: Ladies and gentlemen, I plead with you. I would like to vote on this amendment, and I would like to vote on this amendment to establish a procedure that we can follow the rest of the day and the rest of the week which will allow us not to waste time, albeit sincerely and earnestly, as possible.

Delegate Robinson.

MR. ROBINSON: Thank you. I was beginning to be concerned that the Chair was suffering from "can't-see-itis". But I would refer this body to the statement made by the chairperson of the Judiciary Committee, who said -- and I will attempt to quote -- that he will not meet with this committee or accept any proposal for one second --

A DELEGATE: Thank you.

MR. ROBINSON: -- and he told us specifically what

he will not do. And it is up to this body at this time to decide a smooth way of handling its affairs and moving expeditiously, and no man or no group of men or women should be able to subvert the orderly flow of business in this Convention.

Thank you.

(Applause.)

PRESIDENT CASSELL: Very eloquently stated.

Is there general agreement that that is the position of the chairperson of the Judiciary Committee, and that there is no way of getting permission --

MR. SCHRAG: Mr. President, it is possible --

PRESIDENT CASSELL: The President did not hear that. Now, I want a response to the question. Not he said it. The answer is Yes or No.

DELEGATES: Yes.

PRESIDENT CASSELL: Delegate Freeman -- Hey, that's beautiful.

MR. SCHRAG: Mr. President, I have a slightly different answer to your question. It is possible to get the permission of the chairman of the Judiciary Committee to introduce an amendment. I have in my hand two waivers, two written waivers to objections to its introduction, signed by

LLER REPORTING CO., INC.
0 Massachusetts Avenue, N.E.
Washington, D.C. 20002
02) 546-6666

Delegate Blount. If people go to Delegate Blount and ask for particular waivers, he discusses with them -- One is on behalf of Mr. Jordan's amendment, one is on behalf of the technical amendment that I discussed with the body the other night. Mr. Blount, while he may not be physically present, is still alive and he is still able to make waivers to objections.

PRESIDENT CASSELL: Ladies and gentlemen, rather than to consume any more time on this, the Chair has decided that we will ask Delegate Freeman to make her amendment and we will vote it up or down, two-thirds.

(Applause.)

MS. FREEMAN: Mr. Chair, I move an amendment on line 4, section 1, to insert the words between "inferior courts" the words "and appellate". So that line 4 will read "...Superoir Court, and such inferior and appellate courts as may be..." et cetera.

A DELEGATE: Second.

MS. FREEMAN: I would like to speak to my motion, Mr. Chair.

In this language that came out of first reading, we have an extremely serious problem with our Judiciary. We established a two-tier system in which the highest court is required to serve en banc. Right now we have a two-court

system, as we have established a two-court system in our Constitution, but our highest court does not sit en banc.

In our court system right now we have an incredibly serious backlog of cases. After we passed this, I called down to the D.C. Court of Appeals and various other people who are responsible for the administration of our court system and they said that in 1974 it took 300 days to get an appeal off to the D.C. Court of Appeals. That, I remind you, is where the D.C. Court of Appeals is sitting in panels, not en banc. There has been a steady climb since 1974. In 1981, it took 509 days to get an appeal. In 1982 it takes 450 days to get an appeal.

I talked to these people -- one guy named J. Carver from the D.C. Pretrial Services -- who said that if you have every case sit en banc, you really would have a backlog, and where there is an appeal right, which people have after all sorts of cases, he said it would be hard to imagine.

Larry Polanski, who is the Executive Officer for the D.C. Court system, said -- and I quote -- "You need either to add additional judges --" which I might add this Convention specifically decided it did not want to do, not sitting en banc, which this Convention decided it did not want to do, or a third court. He said, quote, "It is obvious that a single

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

court sitting with nine judges, sitting en banc, cannot handle the workload." He said, "Just like the en banc requirement won't work, you have to include the option of establishing an intermediate court of appeals."

I also point out that on page 2 of our General Counsel's report of May 21st, he said, "In view of the present backlogs in the D.C. Court of Appeals," we've got a problem.

Now, I am not saying I want us to write in a mandatory intermediate court of appeals. I am saying I want the option of intermediate court of appeals be established. I mean, our population may drop, people may stop committing crimes. But, you know, that obviously is rather unlikely.

What will happen to the system the way it is, you are going to have poor people sitting in jail for 560 days waiting for their appeals. That is just outrageous to contemplate.

Finally, it has been argued by certain delegates in this room that we're covered by this, by saying we can establish such inferior courts as from time to time we need to establish, and that somehow our superior court is written into the Constitution up to the status of being an intermediate court of appeals. Well, that is not. We will then have an intermediate court of appeals with 44 Constitutional judges.

Now, we don't need 44 Constitutional judges for the intermediate court of appeals. We need a reasonably-sized intermediate court of appeals.

I want to have the option of putting it in. It is more costly to have a 44-member Constitutional intermediate court than it is to leave it to the legislature to have the option to establish an intermediate court of appeals if we find it necessary -- and I tell you it will be necessary. If we have that backlog right now when it is sitting in panels, we are bound to have that backlog when we're sitting en banc.

Thank you.

PRESIDENT CASSELL: Thank you.

Delegate Harris?

MS. HARRIS: Before I speak, Delegate Cassell, I would like to ask if you would recognize Barbara Baker, who is a research assistant to the committee, who met with the members of Style and Drafting. She might bring some information to add to this discussion, and then I will speak.

PRESIDENT CASSELL: Without objection from the delegates, I will ask Miss Baker to speak. I say "without objection" inasmuch as this is not a delegate to speak on the floor.

Miss Baker.

MS. BAKER: I just want to provide some technical information and methods to the statement that Delegate Freeman made.

First of all, the function of the appellate court is to correct errors of law. The appellate court does not sit to make retrial cases. When this body decided to vote on a two-tier system, it made the Supreme Court the last court of resort, the court of last resort in the State of Columbia, or whatever name we decide. So what the amendment does, it merely offers an entire new system. It is trying to introduce a three-tier system, which would be away from the original vote on the floor, and it also introduces a financial consideration that the body never looked at because it voted on a two-tier system, and also her information that she has given appears to sound misread because of the appellate decisions's function.

Also, the right to a trial in common law does not have a reception clause in your unified judicial system, so your point needs to be just a little bit more clearer in order for the body to even address, because an appellate court corrects arrogant laws, and is not there for a retrail basis.

PRESIDENT CASSELL: Delegate Harris, would you finish?

MS. HARRIS: Thank you, Miss Baker.

What I want to say is that the establishment of an intermediate court was discussed at the committee level thoroughly. It was addressed by Mr. O'Neil Small, who is a member of the Unified Court System. It was addressed by Mr. Thomas Neckersfield (phonetic), who is the Clerk of the Superior Court.

In our research, we determined that the intermediate court does not, in fact, eliminate the backlog that we think it will do. That same question was brought up on this floor during the first reading and it was rejected by this body. Number one, they asked for a reconsideration of something that was fully discussed. As Miss Baker said, the court of appeals corrects errors. It does not solve the problem that we think it will solve.

It was pointed out by people who work in the court system now that creating an intermediate court does not alleviate the backlog. Some jurisdictions have it and some do not. I just wanted to speak to that. The committee voted against it and the committee is still against the third level court system.

PRESIDENT CASSELL: Is there a point of order? State your point, please.

MS. FREEMAN: My point is that I want to correct a misconception. I did not say it is required. I am asking for the option --

PRESIDENT CASSELL: That really isn't a point of order. I think you're debating.

Another point of order?

MR. COOPER: Miss Corn introduced an amendment calling for the appellate court to this Convention while the article was under discussion on the first reading. It was fully discussed and rejected by the body, and this is reconsideration. We cannot reconsider any article or section adopted for the Constitution.

PRESIDENT CASSELL: Delegate Bruning.

MR. BRUNING: I find this discussion between two (inaudible) very interesting. I would be very interested in hearing from a lawyer.

MR. COOPER: Point of order, Mr. President.

PRESIDENT CASSELL: State your point.

MR. COOPER: Whether it's from a lawyer or from a delegate, or from anybody, it is out of order totally because this is reconsideration. It is totally against our rules. We cannot reconsider the question of appeallate courts because we voted it down on the first reading, period.

PRESIDENT CASSELL: Delegate Mason?

MR. MASON: I was asking to be recognized to speak to the issue, but I could also speak to the point of order if you want me to.

My understanding is our rules do not forbid our dealing with such a thing on second reading. They forbid us reconsidering while we're still in first read reading.

PRESIDENT CASSELL: I think the rules indicate that formal debate may ensue, but for any changes there needs to be a two-thirds vote.

MR. MASON: I would like to speak to the merits, not to the point of order.

I support the Freeman amendment. I would point out the experience of Massachusetts, which for many, many years has had a two-tier system similar to ours, except that the highest court -- there it is called the Supreme Judicial Court -- generally sat en banc. I don't know that they absolutely had to, but they generally did. They have seven in the highest court and we have nine. They still have seven.

The backlog situation did drop. At first they tried a stopgap, which was to have an appellate division of the Superior Court. In other words, a few judges of the Superior Court set aside to hear appeals that came from other judges of

the Superior Court. That didn't work very well.

Finally, they appointed a commission to study the court system, headed by Archibald Cox, a professor of Harvard Law School and former Solicitor General of the United States. They came up with recommendations which included the intermediate court of appeals. There has now been in Massachusetts only for a few years -- I'm not quite sure how many -- an intermediate court of appeals. My impression is that it works very well.

But I would point out that the amendment which has been offered does not call for such an intermediate court of appeals. It just makes it possible for the legislature at some future time to establish it. It doesn't forbid it and it doesn't require a Constitutional amendment. Therefore, I support the Freeman amendment.

PRESIDENT CASSELL: Delegate Mason, in your discussion did you indicate that the appellate court referred to does reduce the court backlogs?

MR. MASON: Yes, I did.

PRESIDENT CASSELL: All right. Delegate Simmons.

MS. SIMMONS: Mr. President, I would --

MR. COOPER: Point of order.

PRESIDENT CASSELL: Just a moment. Point of order.

MR. COOPER: Mr. President, I have pointed out time and time again that we cannot reconsider, in moving a motion to reconsider, the adoption of articles to this Constitution. I would like a ruling on that.

PRESIDENT CASSELL: The Chair has already ruled -- The Chair has read the rules, and the Chair reads the rules to say that. Formal debate may ensue and to pass the motion it must be two-thirds. That is the Chair's ruling.

Delegate Simmons.

MS. SIMMONS: Thank you --

PRESIDENT CASSELL: Reconsideration is not on the floor.

MS. SIMMONS: Mr. President, what I wanted to make very clear is that at the time of the Executive Committee's report and during the hearings we came to the Judiciary, we testified hoping to impact the committee's decision in the design of its court system. We testified, a number of people on the Executive, who wanted to have a three-tier court for the very reasons that we had indicated, to save having people languishing in jail while they're waiting for their case to come up.

Now, I think we ought to be particularly sensitive to the fact as to who is in jail and who is languishing, because

if you've got money, power and status, you don't languish. You do get your case expedited.

I think some of the people here who are sensitive in many respects to the application of the law are different, are maybe not quite as sensitive to understand that this system that is being developed is one that will permit that to continue and to inure to the disadvantagement of high visibility minorities and poor people. I think that is a reality.

But since our hearing had no impact on the committee, and since the Executive Committee decided we would defer to the gentlemen of the Judiciary, we even wrote in ours "as determined by the Judiciary" and we have since then put in the article of the Judiciary. But that does not obviate the fact that were gravely concerned and we were disappointed to have all the judges sitting at one time. That, in itself, means that 9 people would be handling 9 cases as opposed to all 9 sitting for every one case. I mean, that takes simple mathematics and understanding.

So for us to have a second opportunity to correct what we think will be an improvement in the delivery of judicial service and its application, I will be supporting the amendment which is before us, and I trust that two-thirds of

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

the rest of the delegates in this body will be sensitive to this point and likewise support the Freeman amendment.

PRESIDENT CASSELL: Delegate Thomas.

MR. THOMAS: Call the previous question, Mr. Chairman.

DELEGATES: Second.

PRESIDENT CASSELL: I want to hear more. We've only had one for and one against.

Delegate Schrag.

MR. SCHRAG: Mr. President, I supported the two-tier system. I wrote a letter to the Judiciary Committee supporting the two-tier system and giving reasons why it should be supported. That letter was read into the records of the committee. I voted for the two-tier system at the first reading.

But on the basis of the discussion I have heard, and the discussion I have been engaged in with people on the committee and elsewhere and other delegates over the past couple of weeks, I have been persuaded that it would be advisable to leave open to the legislature the option of a three-tier system if the reality of court-clogging in the State so requires.

So I think that the Freeman amendment is a good hybrid, a good compromise. It does not create a three-tier

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

system. It merely creates a two-tier system leaving open an option for the legislature, and I think we should give the legislature that much flexibility.

PRESIDENT CASSELL: Delegate Jordan.

MR. JORDAN: I just have a point of information, Mr. Chair -- I mean Mr. President -- from the maker of the motion.

If this motion is voted up, will that mean there will have to be an increase in the number of judges that are authorized?

DELEGATES: No, no.

MS. SIMMONS: No, it doesn't, because the legislature--

MR. JORDAN: All they have to say is "no".

MS. SIMMONS: The legislature determines it.

MS. FREEMAN: As I understand, the legislature is to make that determination, Delegate Jordan.

MR. JORDAN: But that says we are having from 43 to 48 in the Superior Court. Is it 9 now in the Supreme Court? So you're saying if they do create this inferior appeals court that it will have to require additional staffing?

DELEGATES: Yes.

MR. JORDAN: Is there any intent -- Then do you intend at some later point to offer an amendment to reduce the size of those on the Supreme Court?

MS. FREEMAN: I haven't done that, I suppose --

MR. JORDAN: I mean, Delegate Love had information earlier to show that a 9-member Supreme Court was way out of kilter with what we see in other States.

MR. T. MOORE: Point of order, Mr. President.

PRESIDENT CASSELL: Yes, Delegate Moore.

MR. T. MOORE: My point of order is, if this amendment passes, is it going to cost us more money, and my next point of order is that I am wondering what --

PRESIDENT CASSELL: Your point of order now was that if it is passed it will cost more money?

MR. T. MOORE: Will it.

MR. BARNES: Point of order. That is not --

PRESIDENT CASSELL: That is not a point of order now.

MR. T. MOORE: Point of information, and let me finish, please, if you don't mind.

I am disturbed about all the research and all the debating and data we were fed at the first reading. We voted for what the committee had given us. Now we are going back and are going to change this, is subject to changes. If we do this, we are going to be going over committees and committee reports on the second reading. So I am against it.

Let's get the vote, vote it up or down, so we can

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

move on.

PRESIDENT CASSELL: Is there anything that hasn't been said yet on this motion?

Delegate Barnes.

MR. BARNES: I just have a point of order. With all due respect to Delegate Talmadge Moore, that is not a point of order. It's an abuse of our rules.

PRESIDENT CASSELL: You are quite correct. Thank you.

Delegate Thomas?

MR. THOMAS: Move the previous question.

DELEGATES: Second.

PRESIDENT CASSELL: The previous question has been moved. All those in favor of terminating debate indicate by saying aye. (Chorus of ayes.) Those opposed? Abstain?

Okay. The motion on the floor -- Mr. Secretary, would you state the amendment?

MR, COOPER: Delegate Freeman's amendment, to insert in the Article entitled "The Judiciary", section 1, line 4, preceding the "courts", the words "and appellate".

PRESIDENT CASSELL: Those in favor of that insertion indicate by raising your hand. (Show of hands.)

MR. COOPER: Nineteen.

PRESIDENT CASSELL: Those opposed? (Show of hands)

MR. COOPER: Eight.

PRESIDENT CASSELL: Those abstaining? (Show of hands.)

MR. COOPER: Two.

PRESIDENT CASSELL: It does take two-thirds.

(Delegates speaking simultaneously.)

PRESIDENT CASSELL: What is the count, Mr. Secretary?

MR. COOPER: Nineteen in favor, eight not in favor, two abstaining.

MR. COOPER: Abstention is a vote.

DELEGATES: No, no.

(Delegates speaking simultaneously.)

PRESIDENT CASSELL: The vote was 19 for, 8 against, and 2 abstaining. Nineteen and eight is 27; 8 is one-third of 27 -- no, it is not. Nineteen is two-thirds of the total.

The motion carries.

MR. COOPER: I would like to note, Mr. President, that we have voted on an amendment in a manner contrary to our rules. Are any and all amendments in order on second reading?

PRESIDENT CASSELL: Any and all, according to the ruling of the Chair?

MR. COOPER: Yes.

PRESIDENT CASSELL: Our rules indicate that any and all amendments, if they are properly introduced and get a two-thirds vote, can be carried.

MR. COOPER: My question is, even if they are improperly introduced, as the earlier motion was.

PRESIDENT CASSELL: The Chair has already ruled on that. The Chair ruled that it was difficult and the body has accepted the fact that no one individual can determine that a motion shall come up. I would trust that that doesn't occur in others.

Delegate Graham.

MS. GRAHAM: I move the adoption of Section 1, Judicial Power, with the amendment.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 1 on Judicial Power, as amended, be adopted.

Discussion? Delegate Thomas, Barnes.

MR. THOMAS: In regard to the last vote on that amendment, this changes the whole court system --

DELEGATES: No, it doesn't.

(Delegates speaking simultaneously.)

PRESIDENT CASSELL: The delegate has a right to

express himself. Please allow him to speak to the motion on the floor.

Delegate Thomas?

MR. THOMAS: I think it's an improper way to (inaudible)

PRESIDENT CASSELL: Any further discussion on the section?

A DELEGATE: Call the previous question.

PRESIDENT CASSELL: Delegate Rothschild.

MR. ROTHSCHILD: I brought this up once before, but I think we still have a problem. I am very glad that we have adopted the amendment that we have because we now at least have the possibility of an appellate court.

However, by the entire article, by what we have done, we have basically put nine people on the Supreme Court. If at a later point the legislature decides that they want an appeals court, we have got a very large Supreme Court with 9 justices, where the average range is between 5 and 9. So I am not going to introduce an amendment at this point because it is not exactly this specific thing, but I would think, at least when it comes up as to how many judges we want at the top, we might want to think do we want 9 that we'll be stuck with.

When I talk to people, as Delegate Freeman spoke to,

the system we have now cannot handle the caseload. The other systems that have been suggested in the conversations that I've had have always suggested with appeal courts of being able to handle appeals.

Now, if we have 9 at the top -- notice here I have 6 and 5 (indicating on blackboard), which is 11. If we put 9 at the top, we are -- even if we have 6 down here, we're going to have 15. So what I'm saying is, think in terms of numbers if we do eventually get an appellate court, because we're going to have a lot of Supreme Court justices and we might be able to use some of those that we could put at the Supreme Court and appellate level.

Thank you, Mr. Chairman.

PRESIDENT CASSELL: Let me remind you that we are still on the first section. It is now four minutes after 4:00. There are a total of, I believe, 18 sections. We have committed ourselves to finish this today, and we have less than an hour. Please keep that in mind.

Delegate Barnes.

MR. BARNES: Yes. I beg the President to quickly close "Pandora's Box". I think Delegate Rothschild may have a good technical point, but what he is doing is he is taking the last action and readjusting the whole article. We simply

don't have time to do that. I beg for a method to cut this off at the head -- I will call the previous question.

A DELEGATE: Second.

PRESIDENT CASSELL: Those in favor of terminating debate, indicate by saying aye. (Chorus of ayes.) Opposed? Abstained?

All right. Those in favor of section 1, Judicial Power, as amended, indicate by saying aye. (Chorus of ayes.) Opposed? (Chorus of nays.) Abstain?

Delegate Graham.

MS. GRAHAM: Section 2, Supreme Court.

Mr. President, we rearranged some information but we did not lift the thought. The substance is still here. I will read it as we have it.

"(A) Jurisdiction. The Superior Court shall have jurisdiction of appeals from decisions initially made by the Supreme Court. To the extent provided by law, the Supreme Court shall also have jurisdiction of other matters, including appeals from gubernatorial and other executive branch orders and decisions."

I move the adoption of this section.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded

that we adopt section 2, Supreme Court.

Mr. General Counsel, did you have comments to make on this before we begin?

MR. R. THOMAS: Mr. President, I think with the adoption of the amendment in our last section, I think it makes this language that I have even more necessary.

I was concerned with this language as revised, the language in section 2, as I have stated in my report, that the sentence on jurisdiction may have been ambiguous, and that it stated the Supreme Court shall have jurisdictions from decisions initially made by the Superior Court.

The ambiguity is, does that mean every decision, or does that limit it to just interlocutory appeals -- by that I mean rulings that happened in the middle of a trial, which may not be final but nevertheless may affect the outcome of the case. The language here is not clear as to whether the next decisions would be appealable to the Supreme Court.

Also, I didn't see any language that allows any legislative flexibility in the first sentence. The second sentence, "to the extent provided by law" I don't think can be read to refer to the first sentence but only to the other matters, including appeals from gubernatorial and other

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

executive branch orders and decisions, meaning other matters other than court matters.

So I have written up some substitute language that I think would clear up and make the intent of the Convention more clear, and would also take care of this amendment that we just passed. Right now there is no provision for the Supreme Court having jurisdiction over the appellate courts, over any decisions by the appellate courts.

Now, I have passed out suggested language, but I have changes to the suggested language. I wrote it in a rush, so I wish you would pick up my addendum and insert the following changes.

Section 2, Supreme Court.

"(A) Jurisdiction. The Supreme Court shall have jurisdiction --" and please insert "of appeals from final decisions --" striking "initially made by" and in its place put "of the Supreme Court", thereby making the sentence read:

A DELEGATE: Superior.

MR. R. THOMAS: Superior. I'm sorry. Thereby making the sentence read: "The Supreme Court shall have jurisdiction of appeals from final decisions of the Superior Court."

After that, strike the phrase "to the extent pro-

vided by law." Capitalize "T" in the word "The" and the sentence will read, "The Supreme Court shall also have jurisdiction of other matters, including (1) appeals from decisions of the Superior Court that are not yet final as may be provided by law; (2) appeals from appellate decisions of the Supreme Court as may be provided by law --"

PRESIDENT CASSELL: Superior Court.

MR. R. THOMAS: "Superior Court", I'm sorry.

And number three, insert "appeals from determinations regarding disability of the Governor and the Governor-elect", which is already in the Constitution.

Number four, "appeals from gubernatorial and other executive branch orders and decisions as may be provided by law." And number five, which is the protection to this new potential appellate court coming in, "such other jurisdiction as may be provided by law."

PRESIDENT CASSELL: That's number five?

MR. R. THOMAS: Yes.

PRESIDENT CASSELL: All right. Committee response? Delegate Mason.

MR. MASON: I would ask General Counsel if there should not be language that would make it clear that, if and when the legislature does put in an intermediate court, if

the appeals in Superior Court couldn't bypass it. In other words, the way this is now worded, it looks as if everything that arose in the Superior Court could jump immediately to the Supreme Court.

If the intermediate court exists we should provide that appeals from the Superior Court go to the intermediate court.

MR. R. THOMAS: I agree --

MR. MASON: Then, either by certiorari or appeal, some of them will get to the Supreme Court. It probably would be certiorari for --

MR. R. THOMAS: Delegate Schrag has suggested some amended language which I have no problem with.

MR. SCHRAG: Mr. President, the language to which General Counsel has just referred, with which he says he has no problem, would be to add, after "Superior Court" in the language that he read, on the first line, "The Supreme Court shall have jurisdiction (a) from final decisions of the Superior Court --" just add to that, to what we have just done, "or from an intermediate appellate court, if one has been established."

PRESIDENT CASSELL: You left out something. It says "The Supreme Court shall have jurisdiction --"

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

MR. SCHRAG: "--appeals from final decisions of the Superior Court, or from final decisions of an intermediate appellate court, if one has been established."

PRESIDENT CASSELL: Delegate Schrag, are you indicating that the changes suggested by the General Counsel, with modifications that have just been stated, are acceptable to the committee?

MR. SCHRAG: Yes, I am, Mr. President. I would like about a 60-second recess to get the grammar correct because it is a very important technical point, the way we punctuate and so forth may create problems in the future if we don't get it right. So I would like about 60 seconds to confer with the General Counsel and Delegate Mason to make sure we have the punctuation and everything exactly correct.

PRESIDENT CASSELL: Can this be done in 60 seconds?

MR. SCHRAG: I believe it can, sir.

PRESIDENT CASSELL: Then we'll recess for 60 seconds.

MR. LOVE: Mr. President, why don't we let them type this up -- it is so long -- and get back copies to all the delegates and let's move on.

PRESIDENT CASSELL: I believe that your committee representative said it will take 60 seconds. If it takes more than that we'll move on.

MR. SCHRAG: We have it. In less than 60 seconds we have it.

The addition, Mr. President, right before the period on line 2, would be "or, alternatively, if one has been established, from final decisions of an intermediate appellate court."

PRESIDENT CASSELL: Let me have that for the Secretary, please.

MR. SCHRAG: "or, alternatively, if one has been established, from final decisions of an intermediate appellate court."

PRESIDENT CASSELL: Can we have that so the Secretary can read it?

MR. SCHRAG: You want it written, you mean? Yes, I'll write it up, Mr. Secretary.

PRESIDENT CASSELL: Before you give it to the Secretary, would you read the entire thing again so that we can vote on it?

MR. SCHRAG: I guess we need the word "of appeals" in there, too, "appeals from final decisions", just as in the previous sentence.

Okay, I will read it once more and then hand it to the Secretary. I will read the whole sentence.

LER REPORTING CO., INC.
) Massachusetts Avenue, N.E.
shington, D.C. 20002
2) 546-6666

"The Supreme Court shall have jurisdiction of appeals from final decisions of the Superior Court, or, alternatively, if one has been established, of appeals from final decisions of an intermediate appellate court."

PRESIDENT CASSELL: Okay. Is there a second to that?

MR. BRUNING: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 2(A), as amended by common consent by the committee -- which makes it a report -- be adopted. Discussion?

MR. COOPER: Point of procedure.

PRESIDENT CASSELL: Mr. Secretary.

MR. COOPER: We have the same thing here. I want to ask, Mr. President, was this amendment submitted in substance to the Substantive Committee prior to being reported out for first reading? If not, was it waived by the committee chair.

MR. SCHRAG: We need to suspend the rules.

PRESIDENT CASSELL: The President indicated that this was a report of the committee. General Counsel advised the committee of certain changes in wording, not to change the substance. The committee has accepted it and it becomes

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
202) 546-6666

the committee's recommendation. It is now on the floor for vote.

Delegate Shelton.

MS. SHELTON: Mr. Chair, we are in somewhat of a dilemma here, sir. I think that the recommendation from the counsel has now been modified or amended by a delegate, and a lot of these changes are going to impact the entire rest of the provisions of this section.

I would suggest to the Chair, unless we are prepared to revise this entirely on the floor, that we are in a situation where either you need to appoint a special task force or you need your committee to be activated. Otherwise, the rest of us are just voting without a clear opportunity to have -- to think through these provisions.

Many of the committee members who worked on this diligently are obviously not prepared to instruct us how to vote. So we are in a very difficult situation on a very important section, sir. I would suggest either we reactivate the Judiciary Committee or that you appoint an emergency task force to look at this, or else we are going to be voting letter by letter, word by word, the kind of work that should have taken place in the first draft of this Constitution.

A DELEGATE: I second the --

LER REPORTING CO., INC.
Massachusetts Avenue, N.E.
hington, D.C. 20002
2) 546-6666

PRESIDENT CASSELL: Delegate Shelton, it may come to that. It isn't evident to the Chair yet, based on this change here, that we cannot make the necessary provisions as we go along.

MS. SHELTON: We are now on the second amendment. The first amendment, although we voted for it -- and I am not trying to go over that -- it was a very substantive change. I don't know how long this is going to go on, or whether there are other amendments of such magnitude. I am not aware of what the other delegates are proposing, any advance knowledge or information. The committee obviously does not have it. We may find ourselves in the 90th hour undoing the work of the previous days.

I just wonder whether or not we could not send these matters back to the committee for some further --

PRESIDENT CASSELL: It may become evident that that is necessary, but I don't feel that way at this point.

Delegate Simmons, then Delegate Mason.

MS. SIMMONS: Thank you, Mr. President.

I can certainly understand and appreciate the point that Delegate Shelton makes. However, there are more ways than one to skin a cat. I believe that what we have in these first two sections are basic and intrinsic to the

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

document, no question.

I think that our General Counsel has given us a guidance. I think those basic concepts have been established, and by a two-thirds vote, which was at no point in the passing of this document, where the section is approved by two-thirds.

If you will recall, the Judiciary went down by having two and three votes at best in the differences as those sections were voted upon. What we have established here is that two-thirds of this body have made a significant conceptual statement, and based on that conceptual framework from which to operate, we can, indeed, have some confidence in our General Counsel, who thoroughly understood that, to give us guidance at this point in terms of those minor changes to become consistent with the basic concept we have now established.

I would hope that we have by now, in our relationship with the General Counsel, to establish some trust and some confidence. I personally have great confidence and I would like to suggest that that is one option you also have.

MS. SHELTON: Point of personal privilege.

PRESIDENT CASSELL: Please state your point of personal privilege.

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

MS. SHELTON: I was not questioning the competence of the General Counsel. I was wanting to indicate, to make sure it was not a question of the amendments proposed by the General Counsel that caused me concern. It was then when delegates started amending and revising what the General Counsel had that caused me to believe what are we doing at this particular point. Now, if the General Counsel wanted to reconsider and then propose some new language.

I would just like to know, are there any other substantive changes in this section which the General Counsel would like to introduce so that we may be guided on the rest of the section.

PRESIDENT CASSELL: Well, the response to that question is no. We have his recommendation in its entirety and he has made the changes that he wants. He read them to us and they are incorporated in the motion that is on the floor.

Delegate Mason.

MR. MASON: I wish to express the point that the only real substantive amendment that we have dealt with is the Freeman amendment. What we have been doing just now is making conforming amendments (sic) to conform to the existence of the Freeman amendment. These, in themselves, are not

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
202) 546-6666

substantive. They are simply conforming the General Counsel's amendment which he drew up prior to the existence of the Freeman amendment, so that it will say what it should say. There is nothing newly adopted here.

PRESIDENT CASSELL: The Chair agrees, that what happened since Delegate Freeman's amendment is essentially editorial and conforming.

May we now vote on this issue? The motion on the floor is section 2, Supreme Court (A) jurisdiction.

Those in favor of that section, as amended --

MS. HARRIS: Point of information.

Amended by whom? Are we looking at Style and Drafting or General Counsel's?

PRESIDENT CASSELL: We are looking at the committee's report. The committee has accepted certain suggestions by the General Counsel. It is now their report.

MR. COOPER: Point of order.

PRESIDENT CASSELL: Delegate Harris still has the floor.

MS. HARRIS: Will you please read what Style and Drafting accepted from the General Counsel?

PRESIDENT CASSELL: Mr. Secretary?

MR. COOPER: My point of order is, Mr. Chairman,

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
202) 546-6666

the response to Delegate Mason's question not more than 20 minutes ago, when she asked, once imposed by the committee, who the report belongs to, the response was "the body" and you concurred with that. It is up to the body to accept any changes thereafter.

PRESIDENT CASSELL: Thank you. Thank you very much.

Delegate Graham, the changes that you have now were effected in the committee's report. What we are voting on now, section 2(A), is the committee's report, as amended, as amended by the committee's acceptance of the General Counsel.

Those in favor of --

MS. HARRIS: Mr. President, you were supposed to let me know what those changes were.

PRESIDENT CASSELL: You want it read again?

MS. HARRIS: Yeah.

PRESIDENT CASSELL: Mr. Schrag.

MR. SCHRAG: Section 2(A) would read: "(A) Jurisdiction. The Supreme Court shall have jurisdiction of appeals from final decisions of the Superior Court, or, alternatively, if one has been established, of appeals from final decisions of an intermediate appellate court. The Supreme Court shall also have jurisdiction of other matters,

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Vashington, D.C. 20002
202) 546-6666

including (1) appeals from decisions of the Superior Court that are not yet final, as may be provided by law, (2) appeals from appellate decisions of the Superior Court, as may be provided by law, (3) appeals from determinations regarding disability of the Governor and the Governor-elect, (4) appeals from gubernatorial and other executive branch orders and decisions, as may be provided by law, (5) such other jurisdiction as may be provided by law."

PRESIDENT CASSELL: Now, this was passed out to everybody. I assume everybody has a copy of this.

MR. ROBINSON: No, I do not.

PRESIDENT CASSELL: Well, it is available to everybody.

DELEGATES: No.

PRESIDENT CASSELL: All right. Therefore, it has been read to you twice.

Delegate Feely.

MS. FEELY: I did not hear Delegate Schrag read -- I may have missed it -- "or from intermediate appellate courts if one is established".

MR. SCHRAG: "or, alternatively, if one has been established, of appeals from final decisions of intermediate appellate courts."

LER REPORTING CO., INC.
) Massachusetts Avenue, N.E.
ashington, D.C. 20002
02) 546-6666

MS. FEELY: Mr. President, the language needs to be straight, about something being established. I just don't have it.

PRESIDENT CASSELL: I understood that the committee had accepted --

(Delegates Schrag and Feely conferring.)

MR. SCHRAG: Okay, that's acceptable.

PRESIDENT CASSELL: We are waiting now for a final agreement --

MR. SCHRAG: We're in agreement. It is conceivable that one word or another might get moved to a different place in the Style and Drafting Committee, but this is basically it. Certainly the meaning is there.

PRESIDENT CASSELL: Okay.

Has that been handed to the Secretary?

MR. SCHRAG: Yes, it has.

PRESIDENT CASSELL: Those in favor of the amendment -- I beg your pardon -- Those in favor of section 2(A) as amended, and as just read to you with the changes suggested by the General Counsel, indicate by saying aye. (Chorus of ayes.) Those opposed? Abstain? Section 2 is adopted.

Delegate Graham.

MS. GRAHAM: Section 2(B) Composition. The Supreme

Court shall consist of a Chief Justice and eight Associate Justices, who shall sit en banc and not by division or panel when determining the merits of appeals. The Chief Justice shall be designate- by the Judicial Nomination Commission from among the judges in regular active service. The Chief Justice shall serve as Chief Justice for a term of four years or until a successor is designated. The Chief Justice shall be eligible for redesignation as Chief Justice."

I move the adoption.

DELEGATES: Second.

PRESIDENT CASSELL: It has been moved and seconded that we adopt Section 2(B). Discussion?

Schrag, Robinson, Rothschild.

MR. SCHRAG: I think there is a typographical error on line 6. I think the first word should be "Justices" rather than "judges". Let me just check with the original draft on that. I think it's typographical.

Yes, that's right. We changed "judges" to "Justices" throughout but we didn't catch it in this spot. So the first word on line 6 should be "Justices".

PRESIDENT CASSELL: All right. This is not a change, but a correction to take care of a particular problem.

Discussion? Schrag, Rothschild?

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
202) 546-6666

MR. SCHRAG: That's all I had.

PRESIDENT CASSELL: Robinson, Rothschild.

MR. ROBINSON: My question is a follow up to what was stated earlier. It appears to me that we allowed the insertion of the appellate provision by Delegate Freeman, and we were told that with such insertion the process will be speeded up in terms of allowing for corrections of errors in lower courts' decisions, if my interpretation is correct.

Now, my question is this. Why are we at this time allowing the entire panel of judges to sit en banc when it would seem to me to be more expeditious to allow them to sit individually and hear cases, hence speed up the entire process and not having poor people and people of color languishing in jails for these long periods of time for 500 or more days? That's my question.

PRESIDENT CASSELL: Any response from the committee?

MR. LOVE: That's through the Committee on the Judiciary.

MR. SCHRAG: It really should be somebody from the Committee on the Judiciary where, in fact, that's a substantive question. I will if nobody on the Committee of the Judiciary wants to.

PRESIDENT CASSELL: Well, this is not a Judiciary

report.

MR. SCHRAG: Okay. I can answer that question for Delegate Robinson.

Delegate Robinson, I believe the reason we approved this language on the floor, the en banc amendment, was because if you don't have en banc, and the District is the only jurisdiction in the country that doesn't, I understand, at the Supreme Court level -- it's close to the only one --

(Delegates speaking simultaneously.)

MR. SCHRAG: Delegate Mason points out that most of them have en banc. Whether or not it's in their Constitution, most of them sit en banc.

If you don't have them, then what justice you get depends on the judge on the day you get there. That is unfair to people. So to treat like cases alike, we have the same judges sitting at the top and justice doesn't depend on who happens to be there that day.

PRESIDENT CASSELL: Delegate Rothschild.

MR. ROTHSCHILD: I will not make a motion. I would just explain something that if the body thinks is important (inaudible).

The system that we have now has 9 Supreme Court Justices and 44 trial judges, Superior Court judges. In

talking with lawyers and other people, clerks of the court, they suggested that we possibly didn't need as many as nine, which a large State would have. We could have five, which would sit in a group.

Now, the possibilities would be that appeals could come from your trial court right immediately to the Supreme Court. Your Supreme Court Justices then would decide whether that case was going to come to them ultimately, where it was a very important case, capital punishment, which we're not going to have, or a major precedential case, then those Supreme Court Justices would keep it and do the appeal right now.

Now, on a less important appeal, not as important, they could send it down to the appellate level. The appellate level could have six justices. If it had six justices, it could be broken down into panels of three. You would have two that came from here, plus one from here.

Now, Matthew Watson explained to me that it has been done before, where you take two of your judges from here and one from down here and set up an appeals panel. That way you would be setting up three appeals panels.

Now, the system I am proposing --

PRESIDENT CASSELL: Delegate Rothschild, it isn't

clear to me -- Are you speaking for or against the motion?

MR. ROTHSCHILD: I am speaking against.

PRESIDENT CASSELL: In speaking against the motion, you are offering an alternative?

MR. ROTHSCHILD: I am speaking against 2(B), yeah. I'll be done in a second.

PRESIDENT CASSELL: You understand, now, that you are not really speaking against composition. You are speaking against this motion -- you are speaking for something else, right?

You're saying you're against this because you're for something else?

MR. ROTHSCHILD: Right.

PRESIDENT CASSELL: Could you bring that to a close?

MR. ROTHSCHILD: Okay. I'm almost finished.

Now, the reason I'm speaking against this -- and I don't want to tie the body up -- but the reason I am speaking against this is because we are locking in 9 judges at the top right now.

The possible (?) system, which I am not proposing, would take five plus six, that would be eleven, so basically you would have two more judges, which would offer a lot more efficient appellate system, plus the Supreme Court that would

sit all together.

So again, I will not make a motion, but I am speaking against 2(B) for the following reasons. But if somebody else feels it's important enough, or want to reduce the number that we have, of 9 to 5 --

PRESIDENT CASSELL: Okay. Delegate Bruning.

MR. BRUNING: Move the previous question.

MR. KAMENY; Second.

PRESIDENT CASSELL: It has been moved and seconded that we terminate debate. Those in favor indicate by saying aye. (Chorus of ayes.) Opposed? (One nay.) Abstain?

Those in favor of 2(B) indicate by saying aye. (Chorus of ayes.) Opposed? (One nay.) Abstain? It is adopted.

Delegate Graham.

MS. GRAHAM: Section 3, Superior Court.

"(A) Jurisdiction. The Superior Court shall have jurisdiction of civil actions or other matters, at law or in equity, brought in the State; criminal proceedings under any statute of the State; and such other jurisdiction, including appellate jurisdiction of cases decided by inferior courts, as may be provided by law."

I so move, Mr. President.

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

DELEGATES: Second.

PRESIDENT CASSELL: It has been moved and seconded that Section 3(A) be adopted. Discussion?

There being no discussion, those in favor of section 3 as read indicate by saying aye. (Chorus of ayes.) Those opposed? Abstain. Section 3(A) is adopted.

MS. GRAHAM: Section 3(B) Composition.

"The Superior Court shall consist of a Chief Judge and 43 or more Associate Judges, as provided by law."

MR. SCHRAG: Read the note.

MS. GRAHAM: Note. The Committee on Style and Drafting notes an omission and recommends that the following language be added: "The Chief Judge of the Superior Court --"

PRESIDENT CASSELL: Hold on just a minute. The Secretary cannot hear. Ladies and gentlemen, a little quiet, please.

MS. GRAHAM: "The Chief Judge of the Superior Court shall be designated by the Judicial Nominating Commission from among the judges in regular active service, and shall service as Chief Judge for a term of four years until a successor is designated. The Chief Judge shall be eligible for redesignation as Chief Judge."

I so move, Mr. President.

LER REPORTING CO., INC.
) Massachusetts Avenue, N.E.
shington, D.C. 20002
02) 546-6666

PRESIDENT CASSELL: Is there a second?

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 3(B) be adopted. Discussion?

Mr. Cooper?

MR. COOPER: It says here "The Committee on Style and Drafting notes an omission and recommends that the following language be added." Was the omission something to be adopted?

I would like to know where that came from.

MR. SCHRAG: What happened was, on first reading the Judiciary recommended to the body and the body adopted a method of appointing a Chief Justice of the Supreme Court, but the committee inadvertently overlooked the fact that it recommended no way of picking out a Chief Judge of the Superior Court, and the body overlooked that omission as well.

Subsequently, Mr. Blunt, the chair of the committee, approached the Committee on Style and Drafting and requested that the Committee on Style and Drafting bring this omission to the attention of the body and recommend the language that is included here.

PRESIDENT CASSELL: This is the Chief Judge of the Superior Court?

ER REPORTING CO., INC.
Massachusetts Avenue, N.E.
shington, D.C. 20002
2) 546-6666

MR. SCHRAG: Yes.

PRESIDENT CASSELL: Okay. The motion on the floor is to adopt section 3(B). Discussion?

MR. ROBINSON: Point of information.

Mr. President, I question that this body has a quorum.

PRESIDENT CASSELL: Would you like to indicate that there is or is not?

MR. ROBINSON: I would like to indicate that there is not.

PRESIDENT CASSELL: Mr. Secretary?

MR. COOPER: There are 25.

MR. ROBINSON: A few people just walked in.

PRESIDENT CASSELL: The motion on the floor is section 3(B). Those in favor indicate by saying aye. (Chorus of ayes.) Opposed? Abstain? The motion carries.

Delegate Graham.

MS. GRAHAM: Section 4, Qualifications.

"(A) Qualifications. A person nominated as a Judge or Justice must be 1) a citizen of the United States; 2) an active member of the United States Bar who --"

MS. SIMMONS: No. Unified, not United.

MS. GRAHAM: I'm sorry. Right, "of the Unified

LLER REPORTING CO., INC.
0 Massachusetts Avenue, N.E.
ashington, D.C. 20002
02) 546-6666

State Bar who has been engaged in the practice of law in the State for five years preceding nomination but who has not served, within the two preceding years, as a member of the Judicial Nomination Commission or the Commission on Judicial Disabilities and Tenure; and 3) an actual resident of the State for at least five years immediately prior to nomination."

I move the adoption of section 4(A), qualifications.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 4(A) be adopted.

Delegate Brian Moore.

MR. B. MOORE: Mr. President, would you entertain an amendment to this motion that has already been considered on the first reading?

PRESIDENT CASSELL: Delegate Moore, you have not followed the procedures, have you not?

MR. B. MOORE: That's correct.

PRESIDENT CASSELL: No, it is not in order.

MR. COOPER: Point of procedure, Mr. Chairman.

PRESIDENT CASSELL: State your point.

MR. COOPER: Already today, not more than 40 minutes ago, when a delegate had an amendment that did not

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

come through the proper channels, that delegate was allowed to make it. And yet Delegate Brian Moore was totally turned down not to make it.

Now, you yourself stated that you would not allow one person to make that decision. However, I suggest you made the decision and you are one person.

PRESIDENT CASSELL: All right. We had a rationale. The last person had made an effort to go through the normal procedures and was unable to do so. The Chair has decided that he will follow the procedures established in our rules and will not allow any further amendments which will --

Mr. Secretary, I must say to you, and maybe I'll have to talk to the body, too, that throughout this Convention the President has had to sit here listening to -- how shall I characterize this? (Laughter.)

A DELEGATE: Don't.

MR. KAMANY: You can make your point without characterizing it.

PRESIDENT CASSELL: -- insulting remarks, interrupted remarks, disrespectful, discourteous remarks.

I think you will recall that for a short time you indicated that perhaps you had reformed and you would respect the Chair. And when you said that, you got a standing ovation,

ILLER REPORTING CO., INC.
20 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

an even longer ovation that we gave to the Congresspersons who spoke before us.

Now, the Chair can be, as you are also -- I would ask you respectuflly, if you show respect for the Chair and do not shout in my ear -- and I know there's always a possibility I may be stupid, but it's bad enough to know that myself. I don't want you to have to keep reminding me, because I am trying to conduct the meeting in a fair way.

I would like to have your cooperation, and I would like to continue having to treat you and make it easy for me to treat you with respect as I would hope you would do for me. We are all trying to do a job, and everybody else, I submit, has been quite cooperative today.

May we now proceed with -- Yes, Delegate Moore.

MR. B. MOORE: Yes. I would like to comment on the motion on the floor. I will abstain in this voting because lay people will not be allowed to be eligible for judgeships.

Three nights ago on ABC Television they had a program on the role of nonlawyers in judgeships. I think half of the 27,000 judges in the country are non-lawyers. In fact, they even have schools for judges in Nevada. Many counties and states throughout this Union have allowed people

who are not lawyers to be judges.

I think, with the District of Columbia considering the use of non-lawyers and allowing them to be eligible to be judges, it would be a great cost savings and it would allow input of a nonprofessional nature that would provide input on a common sense basis that I think is lacking in the very technical area. It would probably improve the application of justice in our system and restore faith by the common man in the judicial system, as well as among attorneys and judges themselves.

I therefore will not stand in the way of this motion but will abstain from it.

PRESIDENT CASSELL: Further discussion? Barnes, Bruning.

MR. BARNES: I just have a concern, and that is, considering this was passed by the body and that a member of the Convention would speak not to a specific change or to clarification of the wording by Style and Drafting, that constitutes a waste of two minutes of our time.

A DELEGATE: And you just wasted some more.

MR. BARNES: I know I did, but I want to raise the point so we don't...

PRESIDENT CASSELL: All right. May we vote on this

LLER REPORTING CO., INC.
0 Massachusetts Avenue, N.E.
ashington, D.C. 20002
02) 546-6666

particular item now?

A question from the Secretary, discussion from Simmons, and then we'll vote.

MR. COOPER: I only question -- In section 17 here I saw a definition of the practice of law. I just wanted to know why it wasn't defined here as opposed to being defined in the back of the document. I thought that if it were defined on this page, that would probably make easier reference.

PRESIDENT CASSELL: Committee response.

MR. SCHRAG: Mr. Secretary, the committee decided to put the definition in the very last section of the article because a definition is a very technical thing and it would clutter up the reading of the article if we had a definition smack dab in the middle. We didn't want to begin the article with something as technical as the definition, so we decided to end the article with the definition.

PRESIDENT CASSELL: Delegate Simmons.

MS. SIMMONS: Mr. President, I guess I'm really seeking some specific information.

You know, we are suggesting here that the person have practiced law for five years. I remember when we discussed this we did talk about people with backgrounds in the

humanities, high moral and ethical people, with an understanding of human behavior. They might be better judges than those people who have followed the legalistic education and engaged in life based on precedent.

I submit, based on those considerations -- Also, there is another factor I wanted us to consider. There are large segments of men who -- and women -- who have law education and even have passed the Bar, but for obvious racist employment tactics and practices in this nation are not able to fulfill beginning practicing law and end up in the federal government structure as a means of livelihood and as a means of supporting their families. That does not mean they are not prudent and judicial in their temperament and abilities, that they are sometimes victims of circumstances.

I wonder if that equation was given consideration when the stipulation of five years of practice was included and the Unified State Bar active membership.

PRESIDENT CASSELL: Committee response.

MS. GRAHAM: Mr. President, I think this could be answered by some member of the Judicial -- Were you on that committee?

MR. B. MOORE: Yes. I think the idea in mind here

was residency and their familiarity and knowledge of the judicial system and the area here in the State. Therefore, they wanted to make sure that a practicing attorney had a working familiarity with the whole population and the customs and culture. That is why that provision was put in there.

MS. SIMMONS: Thank you.

PRESIDENT CASSELL: Are we ready to vote on this one now? Those in favor of adopting section 4(A), indicate by saying aye. (Chorus of ayes.) Opposed? (One nay.) Abstain? Section 4(A) is adopted.

Delegate Graham.

MS. GRAHAM: Section 4(B), Mr. President, Disqualifications.

"No Judge or Justice shall hold any other State or Federal paid office, position of profit, or employment. Upon becoming a candidate for any elective office, or upon ceasing to reside in the State, a Judge or Justice shall forfeit judicial office."

I move the adoption.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that 4(B) be adopted. Discussion?

There being no discussion, those in favor of adopt-

ing 4(B), indicate by saying aye. (Chorus of ayes.) Those opposed? Abstain?

Delegate Graham.

MS. GRAHAM: I move the adoption of section 4, Qualifications.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 4, the entire section 4, be adopted. Those in favor indicate by saying aye. (Chorus of ayes.) Opposed? (One nay.) Abstain? Section 4 is adopted.

MS. GRAHAM: Section 5, Vacancies in the Office of Judge or Justice.

MR. ROBINSON: Point of information.

PRESIDENT CASSELL: Is this on the article?

MR. ROBINSON: No, sir, on the time factor.

PRESIDENT CASSELL: Speak.

MR. ROBINSON: I understand that the elevators will be closed at 5:00 o'clock.

PRESIDENT CASSELL: I think you understand correctly.

MR. ROBINSON: I was thinking in terms of people having to egress from the building, including the court reporter, that the elevators will be closed and we'll have to walk down.

PRESIDENT CASSELL: I have 4:49. I think that is time for at least one more section.

Section 5.

MS. GRAHAM: Section 5, Vacancies in the Offices of Judge or Justice.

"The Governor shall fill any vacancy in any office of Judge or Justice by appointing one or two or more persons nominated by the Judicial Nomination Commission."

I move the adoption, Mr. President.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 5 be adopted. Discussion?

There being no discussion, those in favor of section 5 as read indicate by saying aye. (Chorus of ayes.) Opposed? Opposed? Abstain? Section 5 is adopted.

Miss Graham, Section 6.

MS. GRAHAM: I move the adoption of Section 6, Salary of Judges and Justice. "The salary and benefits of a Judge or Justice may not be reduced during the term in office of the Judge or Justice."

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 6 be adopted as read. Those in favor signify

LLER REPORTING CO., INC.
0 Massachusetts Avenue, N.E.
ashington, D.C. 20002
02) 546-6666

by saying aye. (Chorus of ayes.) Opposed? Abstain? Section 6 is adopted.

Section 7.

MS. GRAHAM: Section 7, Mr. President, Judicial Nomination Commission.

"The Judicial Nomination Commission shall consist of nine members, each of whom shall serve for six years and until a successor has been appointed. Each member shall be a citizen of the United States, shall have been an actual resident of the State for at least five years prior to appointment, and shall maintain residency in the State."

I move this for adoption.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that Section 7 be adopted. Those in favor signify by saying aye. (Chorus of ayes.) Opposed? Abstain? The motion carries.

Section 8.

MS. GRAHAM: Section 8, Judicial Nomination Commission Membership.

"Members of the Commission shall be selected as follows:

"a) Six members shall be appointed by the Governor,

with the advice and consent of the legislature. Two of them shall have been engaged in the practice of law in the State for at least five successive years preceding appointment. The other four shall not be lawyers.

"b) Two members shall be appointed by the Board of Governors of the Unified State Bar and shall have been engaged in the practice of law in the State for at least five years preceding appointment.

"c) One member shall be appointed by the legislature and shall be a lawyer or a retired Judge or Justice of the State.

"Members shall receive compensation as provided by law. The Commission shall choose annually from among its members its chairperson and such other officers as are deemed necessary."

I move the adoption of this section, section 8.

DELEGATES: Second.

PRESIDENT CASSELL: It has been moved and seconded that Section 8 be adopted. Discussion?

There being no discussion, all in favor of adopting Section 8 as read will indicate by saying aye. (Chorus of ayes.) Opposed? (One nay.) Abstain? Section 8 is adopted.

One more section, Section 9.

MS. GRAHAM: Section 9, Tenure of Judges and Justices.

"Judges of the Superior Court and Justices of the Supreme Court shall be appointed for life, subject to removal by the electors and to removal, suspension --" that is to be deleted, "and to removal -- "

MR. SCHRAG: No, no. It should not be deleted.

MS. GRAHAM: All right, "...and to removal, suspension, or involuntary retirement by the Commission on Judicial Disabilities and Tenure, as provided for in this Article."

That "and to removal" should remain. I move the adoption.

DELEGATES: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 9 be adopted. Discussion?

Those in favor indicate by saying aye. (Chorus of ayes.) Those opposed? Abstain? Section 9 is adopted.

Let's take one more, section 10, Retention Elections.

MS. GRAHAM; Mr. President, Section 10, Retention Elections.

"In a manner provided by law, each Judge or Justice

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

shall be subject to retention or removal by the electors, on a nonpartisan ballot, at the first general election held more than three years after initial appointment. An additional retention election shall be held every ten years for a Supreme Court Justice, and every six years for a Superior Court Judge.

"Not less than eight months prior to a retention election, a Judge or Justice may file with the Commission on Judicial Disabilities and Tenure a request for official evaluation. If a request is filed, this Commission shall prepare, not less than 90 days prior to the date of the election, a written evaluation of the performance and fitness for continued service of the Judge or Justice, including a rating on a scale established by law. In evaluating the Judge or Justice, the Commission shall collect relevant information from a representative sample of judges, lawyers, scholars, litigants, and jurors familiar with the work of the Judge or Justice. The Commission shall make its report and rating available to the Judge or Justice, the press, and the public. If no request for evaluation is filed, the Commission shall report that fact."

I move the adoption, Mr. President.

DELEGATES: Second.

LER REPORTING CO., INC.
) Massachusetts Avenue, N.E.
ashington, D.C. 20002
02) 546-6666

PRESIDENT CASSELL: It has been moved and seconded that section 10 be adopted. Discussion?

Those in favor --

MR. JORDAN: Mr. Chair?

PRESIDENT CASSELL: I'm sorry. Delegate Jordan.

MR. JORDAN: I have an amendment that I had submitted earlier. What it basically does -- It is on line 24 of page 5. After the word "years", delete the rest of that sentence. So now what we do is provide a ten year term for Judges on the Superior Court and for Justices on the Supreme Court.

MR. SCHRAG: Second.

PRESIDENT CASSELL: All right. This amounts to an amendment which will take a two-thirds vote.

Mr. Secretary, do we have a quorum?

MR. COOPER: Yes.

PRESIDENT CASSELL: All right.

Mr. Jordan, would you repeat that for the Secretary, please?

MR. JORDAN: The amendment is on page 5, line 24, after the first word "years", put a period there and strike "for a Supreme Court Justice, and every six years for a Superior Court Judge."

PRESIDENT CASSELL: Schrag, Cooper and Love.

MR. SCHRAG: I would like to support the Jordan amendment. It simplifies the Constitutional article, and it will help sell the Constitution and will, I think, reduce the nervousness of the bench that they're going to have to be running all the time for election. I think it's a good idea.

PRESIDENT CASSELL: All right. It is now 4:56. It may be that we can't complete this section.

Do you want to continue? The elevators are waiting. We have an amendment to deal with and then we have the entire section.

The Chair feels that we perhaps should dispense with this, that we should not attempt to complete this.

Without objection, the Chair will adjourn and we will reconvene with this as our first item of business on Monday.

Let me put one issue before you. The Style and Drafting Committee has requested an opportunity to meet away from this building tomorrow --

DELEGATES: That's one thing.

PRESIDENT CASSELL: Well, it is what has been put before me.

MS. GRAHAM: Mr. Chair, we are requesting permission to meet at the District Building this afternoon after we leave here, and tomorrow at 2:00 o'clock. We would like to get permission for that.

PRESIDENT CASSELL: Is there a second to that motion?

A DELEGATE: Second.

PRESIDENT CASSELL: May we allow that committee to meet today and tomorrow at the District Building by common consent? There is work to be done.

Okay.

MS. GRAHAM: Room 115, this afternoon and tomorrow--503 tomorrow.

PRESIDENT CASSELL: Style and Drafting is meeting at 5:00 o'clock in Room 115 of the District Building very shortly.

Delegate Feely?

MS. FEELY: Mr. President, in view of the situation, couldn't we take a vote on having a plenary session from 5:00 to 9:00 tomorrow in emergency session?

PRESIDENT CASSELL: Mr. Secretary, is there a quorum in this room?

If we have a quorum, we can vote on that. Would

ILLER REPORTING CO., INC.
10 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

somebody see if we can get a quorum in here?

Mr. Barnes.

MR. BARNES: Will we be working on Rights?

PRESIDENT CASSELL: No, we have not, by far, finished with --

MR. BARNES: But will Rights be the first order of business?

PRESIDENT CASSELL: Rights will be the first order of buniness after we finish Judiciary. We have only gone half-way through now.

Ladies and gentlemen, there is a motion on the floor to have an emergency session tomorrow at 5:00 o'clock in the District Building.

Do you have a room, Delegate Feely?

MS. FEELY: We probably could get the Council Chambers.

PRESIDENT CASSELL: Those in favor of an emergency meeting tomorrow -- Discussion?

MR. COOPER: Yes. We have to inform the other half, the other 21 delegates that aren't here. You may not have a quorum.

PRESIDENT CASSELL: Is there further discussion on the motion? Brian Moore.

MR. B. MOORE: Yes, could you take a survey as to how many here will be attending tomorrow if we do meet?

PRESIDENT CASSELL: That's a good point, before we vote on this, since it doesn't appear to me we have a quorum.

How many people in the room now will attend an emergency plenary session tomorrow in the District Building at 5:00 o'clock? (Show of hands.)

The President will not be able to be with you.

MR. COOPER: Fourteen.

PRESIDENT CASSELL: How many will definitely not be able to meet tomorrow? (Show of hands.)

MR. COOPER: Five.

PRESIDENT CASSELL: All right. We have 14 people here who say they will meet. That means we need to have at least an additional 9 people in order to have that session. We can instruct the staff to try to reach people today and tomorrow morning, if possible.

My feeling is that on such short notice we may very well not be able to get 9 people to come on Sunday. The Chair is disposed not to call such a meeting unless somebody would want to overrule the Chair. Let's take a vote on that right now. I don't think you're going to get 23 people. I

don't think it would be fair to try to reach that many people overnight.

I would say now the Style and Drafting Committee is to meet with me at 5:00 o'clock in Room 115. Those people that I would like to have there are at least Delegates Graham, Schrag, Feely -- Miss Ellington, I understand she has left -- Dr. Austin and myself. Will those people be going immediately over to the District Building?

Yes? All right. Anybody else on Style and Drafting Committee is welcome to attend.

(Whereupon, at 5:05 p.m., the Convention was adjourned.)